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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/799,037
Filing Date: March 11, 2004
Appellant(s): WALKER, VINCENT P.

Vincent Walker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/9/2007 appealing from the Office action mailed 5/16/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

NEW GROUND(S) OF REJECTION

Claims 1-6, 11, 24, and 26 are rejected under 35 U.S.C. §102(b) as being anticipated by Apprille et al., U.S. Patent No. 5,813,293 ("Apprille").

Examiner made a typographical error in the Final Office action mailed 5/16/2007 and forgot to include claim 11 in the list of claims anticipated by Apprille et al. Lines 4-7

of the Apprille et al 102(b) rejection in the Office action mailed 5/16/2007 clearly state the subject matter set forth in claim 11 as being anticipated by Apprille et al.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,813,293	Apprille et al	9-1998
6,442,850	Coffin	9-2002
6,276,061	Rozenkranc	8-2001

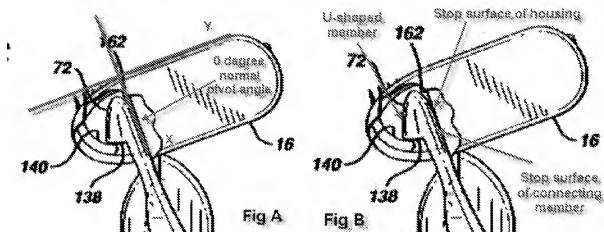
(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

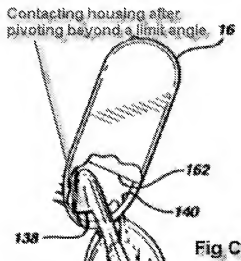
Claims 1-6, 11, 24, and 26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Apprille et al, hereinafter Apprille.

Apprille teaches (see Figures 4, and 16-18) a shaving cartridge comprising a housing (16) with more with multiple shaving blades (18) located between front and rear portions of the housing. A connecting member (24) is pivotally connected to the housing via connecting arm (28) terminal portions located at the end of each arm. The connecting member has a U-shaped load-bearing surface (forward portion of member 72 in Figure 16) that contacts the housing only when the housing is pivoted beyond a limit angle that is greater than the normal pivot angle. The normal pivot angle in this case is zero degrees, as the shaver normally rests in an unbiased position. The normal pivot angle is defined by opposed stop surfaces, which consist of surface (162) of the

housing and the rear portion of the arm (72). Modified Figures (A and B) of Figure 16 shown below better show the opposed stop surfaces as well as the normal pivot angle.



The limit angle is therefore anything beyond zero degrees up until just before the U-shaped load-bearing surface shown in Fig B contacts the housing. Modified Figure C of Figure 17 shown below shows the contact between the connecting member and the

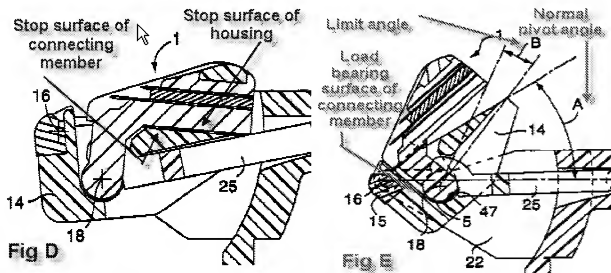


housing when the housing is pivoted beyond the limit angle. There is an opening (130) in the connecting member designed to receive a handle interconnect assembly for

connecting the cartridge to a handle (12). A guard element (20) is formed on the housing (16) preceding the blades.

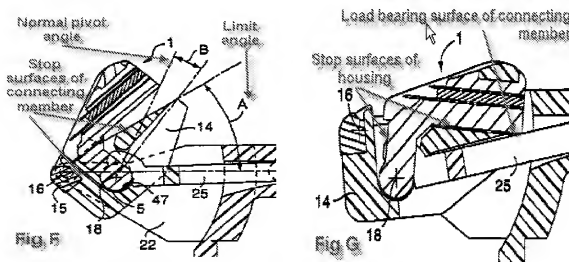
Claim 1, 24, and 26 stand rejected under 35 U.S.C. 102(b) as being anticipated by Coffin (U.S Patent No. 6,442,850).

Coffin teaches (see Figures 6 and 7) a detachable shaving cartridge comprising a housing (1) with two shaving blades located between front and rear edges of the housing (1). A connecting member (25 and 14) is pivotally connected to the housing. The housing and connecting members each help define normal and limit angles, but the normal and limit angles can be defined in two different ways. The first way for defining the normal and limit angles is best described with reference to Figures D and E, which are modified drawings of Figures 6 and 7. The connecting member (25 and 14) defines a stop surface (Figure D). The housing (1) defines an opposing stop surface (Figure D). The stop surface of the housing abuts the stop surface of the connecting member



throughout the movement of the housing (1) through an angle (A) thereby defining a normal pivot angle (Col. 5, lines 45-67, Col. 6, lines 5-8). After housing and connecting

member move through the normal pivot angle (A) the housing (1) continues moving through a limit angle (B). A load bearing surface (Figure E) on the connecting member contacts the housing after the housing is pivoted beyond the limit angle. The second way of defining the normal and limit angles can be best described with reference to Figures F and G, which are modified drawings of Figures 6 and 7. The connecting member defines stop surfaces (Figure F). The housing (1) defines opposing stop surfaces (Figure g). The stop surfaces of the connecting member and the housing define a normal pivot angle (B). A load bearing surface (Figure G) on the connecting member contacts the housing after the housing is pivoted beyond a limit angle (A).



Claims 7-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Coffin.

Coffin teaches all of the elements of the current invention as stated above except the normal pivot angle being between 35 and 45 degrees, more specifically about 41 degrees. Coffin further fails to teach the limit angle being greater than 41 degrees, more specifically between about 41.5 and 45 degrees.

It would have been an obvious matter of design choice to a person of ordinary skill in the art to create a normal pivot angle between 35 and 45 degrees but more specifically about 41 degrees, and a limit angle greater than 41 degrees, but more specifically between about 41.5 and 45 degrees because discovering the optimal pivot angles would have been a mere design consideration based on the desired amount of pivot available to provide a comfortable shave and the spring coefficient of the springs used. Such a modification would have involved only routine skill in the art to accommodate the aforementioned requirements. It has been held that when the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges or values involves only routine skill in the art.

Claims 9 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aprille.

Aprille teaches all of the elements of the current invention as stated above except teach the limit angle being greater than 41 degrees, more specifically between about 41.5 and 45 degrees.

It would have been an obvious matter of design choice to a person of ordinary skill in the art to create a limit angle greater than 41 degrees, but more specifically between about 41.5 and 45 degrees because discovering the optimal pivot angles would have been a mere design consideration based on the desired amount of pivot available to provide a comfortable shave as well an optimal trimming angle for the trimming blade with respect to a users face. Such a modification would have involved only routine skill in the art to accommodate the aforementioned requirements. It has

been held that when the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges or values involves only routine skill in the art.

Claims 12-14, 22, 23, and 27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aprille in view of Rozenkranc (U.S Patent No. 6,276,061).

Aprille teaches all of the elements of the current invention as stated above except a trimming assembly comprising a trimming blade connected to the cartridge housing.

Rozenkranc teaches (see Figures 3 and 3a) attaching a trimming assembly with a trimming blade to a cartridge housing.

It would have been obvious to have modified Aprille to incorporate the teachings of Rozenkranc to provide a trimming assembly to the housing of the cartridge. The trimming assembly would be limited in rotation by the opposing stop surfaces of Aprille as the forward portion of the connecting member would come in contact with the surface of the housing at the limit angle and stop the rotation of the housing relative to the connecting member. Providing the trimming assembly would make it easier for a user to trim delicate places such as sideburns.

Claims 20 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Aprille in view of Rozenkranc as related to the rejection of claim 14 above.

The modified device of Aprille teaches all of the elements of the current invention as stated above except teach the limit angle being greater than 41 degrees, more specifically between about 41.5 and 45 degrees.

It would have been an obvious matter of design choice to a person of ordinary skill in the art to create a limit angle greater than 41 degrees, but more specifically between about 41.5 and 45 degrees because discovering the optimal pivot angles would have been a mere design consideration based on the desired amount of pivot available to provide a comfortable shave as well an optimal trimming angle for the trimming blade with respect to a users face. Such a modification would have involved only routine skill in the art to accommodate the aforementioned requirements. It has been held that when the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges or values involves only routine skill in the art.

(10) Response to Argument

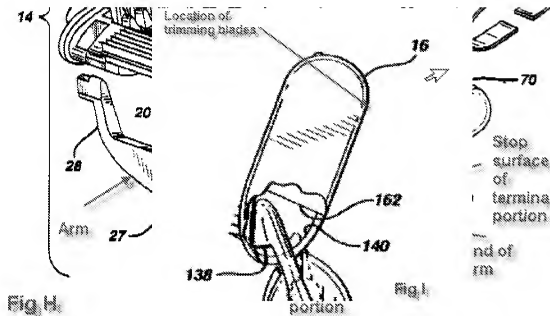
In response to Appellant's arguments (Page 7) in reference to Apprille and independent claims 1 and 24 of the instant invention, Appellant has not sufficiently defined the normal and limit angles in either of these independent claims to read over Apprille. There is no reason why the normal pivot angle cannot be zero degrees and the limit angle be the angle between zero degrees and the contact angle between the load bearing surface of the connecting member and the housing as described in detail above. To further justify Examiner's position relating to the normal and limit angles the wording of the claims need to be examined. Appellant claims that the housing and the connecting member are pivotally connected, and the housing and connecting member define "opposing stop surfaces for limiting rotation of the blade unit relative to the connecting member; wherein the normal pivot angle is defined by the opposed stop

surfaces". Examiner has interpreted this statement to mean that both the housing and connecting member have a single stop surface, which together define opposing stop surfaces. The stop surfaces prevent the housing from pivoting in a single direction and therefore limit rotation of the blade unit. In an unbiased position the housing of Apprille rests in a position shown in Figure 16. Therefore since a user probably shaves only once a day, the majority of the lifespan of the housing will be spent in this normal unbiased position relative to the connecting member. Therefore a zero degree normal pivot angle is reasonable. With reference to Page 8 of Appellant's arguments Examiner will not read Appellant's specification into the claims as any object capable of pivotal motion will have its own definition of what a normal pivot angle is and therefore the phrase "normal pivot angle" cannot be used to define a specific pivot angle unless that specific angle is further defined in the claims instead of just in the specification.

In response to Appellant's arguments (Pages 9-11) regarding Coffin and independent claims 1 and 24, member 14 is permanently attached to the member 25 and the combination of the two can be considered the connecting member as a surface (47; Figures 3 and 4; Col. 5, lines 1-32) of member 14 aids a hook portion (28) on member 25 in connecting the housing (1) to a shaving device. In Examiner's first way of rejecting claims 1 and 24 with Coffin, Examiner has applied the same definition to the phrase "opposing stop surfaces" as used in the Apprille rejection and therefore the examiner has defined only one surface on the housing and one surface on the connecting member as the opposing stop surfaces. The opposing stop surfaces limit the rotation of the housing in one direction and therefore limit rotation of the housing.

Furthermore, since the opposing stop surfaces maintain contact for a certain number of degrees (A) it can be stated that the degrees in which the opposing stop surfaces remain in contact with each other define a normal pivot angle therefore making the normal pivot angle defined by the opposing stop surfaces. Appellant has provided no structure in either claim 1 or 24 to teach otherwise. Examiner's second way to define the normal and limit angles with respect to the opposing surfaces in Coffin more closely relates to Appellant's intended meaning of the opposing stop surfaces between the housing and the connecting member. Figure 7 of Coffin clearly shows the housing being capable of contacting the top portion of member 25.

In response to Appellant's arguments regarding Apprille in reference to claim 14, Examiner has provided Figure H, which is a modified version of Figure 4, below. As seen in Figure H the connecting member is pivotally connected to the housing (16) by



arms. There is a terminal portion (72) at the end of each arm. A normal pivot angle of zero degrees can be defined by the stop surface of the terminal portion (hidden surface in Figure H but can be seen in Figure 16 or Figure B above) and a stop surface of the housing (Figure B). The end of each arm forms a load bearing surface that contacts the housing only when the housing is pivoted beyond a limit angle, which is the same angle as defined above in relation to claim 1 and previously shown in Figure C above. The trimming blade of Rozenkranc would be found at the same location in Apprille as disclosed in Rozenkranc and as seen in Figure I, a modified version of Figure 17 of Apprille, below. Figure 3a of Rozenkranc clearly shows that the trimming blade would be used when the housing was rotated past what is being defined by the examiner as the limit angle. Claim 14 never states that the opposing stop surfaces for limiting rotation of the connecting member with the housing during a trimming operation using the trimming blade cannot be the same opposing stop surfaces that are used to define the load bearing surface and the housing contact surface that contact each other after

the housing is rotated beyond a limit angle. Therefore the examiner can describe them as such. Furthermore, just like Apprille the connection means of Rozenkranc could be used to teach the claimed connection between the housing of the blade unit and the connecting member.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section (9) above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the

other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/Edward F Landrum/

Examiner, Art Unit 3724

11/26/2008

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

/DONALD HAJEC/

Director, Technology Center 3700

Conferees:

/Allan N. Shoap/

SPRE, TC 3700

/Boyer D. Ashley/

SPE, 3724

Fish & Richardson P.C.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402